

DISABILITY, POLICE INTERACTIONS & CRIMINAL JUSTICE

This is a verbatim transcript of the March 29, 2019 symposium panel. The video of the panel is available at: http://bit.ly/Criminal-Justice_ADAAA.

Speaker names are in bold, followed by the minute and second marks in parenthesis to indicate the location at which the remarks begin on the corresponding video.

Christopher Hill¹ (moderator) (00:05)

All right. This panel is Disability, Police Interactions and Criminal Justice.

Now race, disability infects every part of the criminal justice system. Race, disability, class, sexual orientation, gender. All of it. So, since we're in a law school, we have no choice but to talk about intersectionality. That said, we have an incredible panel of people here who we are going to have a conversation. It's not going to be presentation and moderator. We're just going to talk about the issue and hopefully we'll have time for your questions so you can get into the conversation as well. My name is Chris Hill. I'm an Instructor here in the Legislation Clinic at UDC.

To my left is Najma Johnson. They are the Executive Director of DAWN.

I'm not going to read the entire bio because it is in program, but you will definitely see how awesome folks are. And you'll hear how awesome they are as well.

There's Claudia Center. She's a Senior Staff Attorney with the ACLU Disability Rights Program.

There is Carrie Galloway is the Executive Director of Friends of Guest House. Next to her is Heidi Christensen who is an activist and also has experienced all of this firsthand.

And last but not least, Jonathan Smith, who is the Executive Director of the Washington Lawyer's Committee for Civil Rights and Urban Affairs.

So, let's start the conversation. What. What are we supposed to do? [*Laughter*] Meaning, it's almost, and it feels like it could be, an insurmountable problem. From the very beginning of police interaction someone who has a--who's living with a hidden disability. What happens at the very beginning of the process?

¹ LL.M Fellow and Instructor, Legislation Clinic.

Jonathan Smith² (02:45)

Do you want me to jump in?

Chris Hill (02:49)

Sure.

Jonathan Smith (02:50)

So. Hidden disability. Can people hear me?

People really. Think. So, I think there's a lot of ways to answer the question that you posed. So, I'm going to touch very globally and then get more precise. One of the--I could try to just talk loudly.

Okay. We have in the last 50 years dramatically expanded our criminal legal system. When you think in 1968 when the Kerner Commission issued its report there were 200,000 people incarcerated in the United States. There are more than ten times that number, today. It's twice as many people locked up as the day I started to practice law. It's largely been focused on social control of people of color at the end of Jim Crow. But it's also in a way to address the collapse of other mechanisms for dealing with social problems and to other-ize and place people that people don't want to interact with...

Oh yes. Thank you. Now could people hear me? OK...you know out of the mainstream of society.

And so, the interaction of persons with disabilities in the criminal legal system is fraught with the decision that we're going to criminalize behavior. That we're going to use the criminal legal system to respond to social problems and as a method of social control rather than to support people in the community. So, the short answer really is that it is a problem that when there is somebody who is in need or a need to address an issue that the only place to call is the police department.

If you've got somebody in crisis, 911 is the only response that we have. And so, I think that, that is a you know at a global level, a serious issue. What happens now is that when someone calls the police or there's an issue whether the disability is hidden or not hidden. There is a police response through the law enforcement response. We don't have a social services or a support response. We don't have a community response. We don't have a response that provides assistance, but is essentially a punitive response and people enter the system through law enforcement.

And so, there's been I think both good news or bad news story and some of this. There is a broad recognition that police are the wrong people in sort of most

² Executive Director, Executive Director of the Washington Lawyers Committee for Civil Rights and Urban Affairs.

circumstances to respond. And what we have the--that's the broad recognition is the good news. The bad news is that we've attempted to try to solve that problem in the context of policing by creating ways in which we're trying to equip police to be the solution and that's really not an approach that we ought to take. We ought to police most of this--most of the interactions.

Chris Hill (06:18)

Claudia, picking up on what Jonathan just said maybe the police being the wrong people to call. And I saw you nodding. Yes. You said that you want--you want to pick up from there?

Claudia Center³ (06:29)

Sure. I was going to jump in and then Jonathan did cover that material but so a lot, a huge percentage of the avoidable police force used on citizens or people in our communities are people of color, people with disabilities, people of color with disabilities, especially black and indigenous people of color.

And so, it's particularly people who with psychiatric disabilities, people with intellectual disabilities, developmental disabilities, autism, people who are deaf, hard of hearing. And the solution that many well-intentioned, I suppose, people have jumped to is to provide training to police officers on how to interact just as Jonathan was saying. And we have found that that those trainings have not effectively reduced the use of avoidable force against people in our communities with disabilities.

Chris Hill (07:30)

So, can I just jump in with a question? We see this a lot in schools where school resource officers, rather than deescalating the situation, escalate the situation because they don't understand how juvenile minds work. They're there for order and not to help. Is that the same way in the adult system?

Claudia Center (07:53)

Yes.

Chris Hill (07:54)

In the trainings they're using now?

Claudia Center (07:55)

Right. Exactly. And so we have the ACLU has a number of cases regarding "SROs", school resource officers, as well as police officers with adults with disabilities, children with disabilities in schools, adults with disabilities in the community. And in all of

³ Senior Staff Attorney, ACLU Disability Rights Program.

these cases, the police are precisely the wrong people to be placed in these situations. There is escalation. We've had cases of handcuffing of 7-year olds, 8-year olds, tiny children in schools. And there's the police know what they have a compliance approach to other people. And that is very tied to violence and results in violence.

Chris Hill (08:50)

Najma. As a community collectivist, which is a great term. Somebody who's been wronged with a disability--and probably race--and been arrested. Perhaps on a Facebook video being brutalized? How does the community collectivist, activists react to that? What should we do to activate the disability community and all other communities against this?

Najma Johnson⁴ (09:37)

Well to make sure I understand the question correctly. So. So if I see a video on YouTube or Facebook, are you saying if someone is captured by the police what should we do? How we should support them?

Chris Hill (09:50)

Yes.

Najma Johnson (09:54)

Which community are you talking about the deaf community? Hearing community?

Chris Hill (09:58)

We'll say deaf community, but I'm saying all of the above some. Someone with a hidden disability and often deafness is a hidden disability to police officers. So, as an activist, what do we do? How do we collect the community together? Particularly, the disability community of all disabilities to fight against this.

Najma Johnson (10:29)

Okay, so I would like to start with this sentence. Disability--the culture of disability--is based on hearing people. So what they envision, you know, even though we're deaf; you know deaf people have a disability, yes. But we still follow what the hearing people define as a deafness or your disability. And because of that, it calls a divide between the deaf community and the disability community. Because me, I'm deaf, I'm disabled, but not a lot of us. You know it's important for hearing people to really understand. How you define a disability and how we define disability. And because of that, let's jump onto the next topic.

⁴ Executive Director, DAWN.

So in policing, if there is an arrest or something. So the police, they see one thing; they see race. How you look, your appearance. So if a deaf person has some type of accessibility to like hearing aids like for myself I'm deaf blind. But I had access to some vision. So, if the police sees me, they're thinking I'm faking or I'm not really deaf blind. You know especially with people of color or darker skin they think, "oh you're faking. You're trying to pass off as this or that. It's not real," which causes more trouble with the police.

So, if the deaf, a deaf person is trying to actually explain to the police officer my situation you know. Let's say we eliminate race and keep the disability. So, if there is a white deaf person, definitely, they will get approached differently. So nowadays, how we can you know support how we can get more involved. Just you know, just let go of the concept of, there are people who do fake disability. Yes. There are people. But let's let that concept go. And if a deaf person does have, you know, some accessibility to speaking or some type of hard of hearing, let that go. So, if the deaf person says, I don't want this type an interpreter. I would like this type an interpreter. Let's do that for that deaf person.

Chris Hill (12:40)

How often do the police have interpreters?

Najma Johnson (12:45)

Well really it depends. Like at Gallaudet University. You know they work with the MPD. You know they have the same common practice with a few police officers there. But in general no, we have to wait. If the interpreter doesn't show up, the police make the decision on their own. Oh you're going to be arrested or you're going to be released. Or you know sometimes. They use police who know how to finger spell but don't know how to sign. But that's not language, that's not really communication. That's not a mode of communication.

So, the truth. Every. Every single time it should happen and it doesn't. It's either too expensive. Or we're faking it. Or we're just trying to get out of that situation. Or we just won't accept you know what their perspectives or how we can change that certain situation. But maybe, we might get a paper and pen. Maybe they might want to finger spell. You know that doesn't work. So, it's very little.

Chris Hill (13:54)

Do you have any idea of what might work?

Najma Johnson (14:03)

Well that's different intersectionality issues. So, I'm thinking it's important to collaborate with different organizations that support deaf and disabled people because they do use different communication modes. For example, I know HEARD is one of them. Can you elaborate for me what HEARD is?

(Receiving signs from a member of the audience) Helping Educate Advance Rights for the Deaf community.

So, they work on a national level. They have a local level. They have a community level. They have some deaf people. They try to engage and try to train you know some people with big access and big knowledge. Yes. Let's collaborate and let's support each other. And sometimes they say, "oh that's a deaf thing, let them take care of that." But it doesn't work like that. Meaning that deaf disabled people, no let's go back. Disabled people, who are still perpetuating that you know our black and brown bodies. So if the organization does ask this organization for support they should support. Yeah if they don't understand the language, we can figure it out. We can find a way. I know HEARD has many information on that Web site. They have tons of information. They have different small organizations they collaborate with. They have the internet, you know. And if I do reach out and someone wants to communicate with me. I think it, you know, requires a person to be humble, honest and say, yes we are hurting deaf people. Take that into action and it's true. But you know if we can, work together collectively. We can make a big difference. Definitely. Well how much? I don't know, but I'm pretty sure something.

Chris Hill (16:03)

I think we're in the right place with that. I hope that we can make some connections. Heidi, you have been part of this system. What was your first interaction like with police?

Heidi Christensen⁵ (16:17)

It was extremely unpleasant. Obviously, I'm not a person of color and obviously, I don't have an intellectual disability. However, I had a substance abuse problem and all of my charges were possession, possession, possession, possession.

You would think that they would, that light would go on and they would say there's a pattern here. Perhaps some treatment would be an option to having incarceration. But that wasn't the case. So they threw me into, they stripped me of my clothing. Once they found that I had a substance abuse problem, they stripped me of my clothing. I was completely nude, gave me what looked like an umpire's vest put me into a room they called the pink room. It's a nice name for a horrible place. Inside that room were other addicts withdrawing people that were on suicide watch, and people with mental illnesses that had yet to see the medical department, so they had not been treated.

They left me in there for ten days. Plain and simple, that was their response to how this opioid epidemic, which is responsible for a lot of women we come to it through trauma. A lot of women being incarcerated. That was their response to how to detox somebody that has a substance abuse problem.

⁵ Speaker, Friends of Guest House.

So it's just, and then on top of that, I had the collateral consequences of--I'd had surgery and had an arterial embolism, which resulted in the fourth compartment fasciotomy. Which, if you don't know, that it's where they slice you from the knee to the ankle to the bone on both sides to relieve pressure. And I had an open surgical wound, so I had no medical treatment while I was in there. They just left me and I consequently, because of that surgery, I have disability called foot drop where it doesn't pick up like the other foot because they had to slice through the nerves and tendon so. Absolutely no treatment whatsoever. And then after ten days when they figured out that you know, they were, they assumed that I was all right. They finally took my blood pressure. They put me in solitary confinement. That was their response.

Chris Hill (18:12)

Did they give you a reason they put you in solitary?

Heidi Christensen (18:15)

Because I wasn't in the proper state of mind to be in the general population. I don't know who determined that because I didn't see anybody for them to make that determination and they certainly didn't medicate it. They just put me in solitary confinement, I think for another ten days.

And then I eventually was out five days later. Yeah, it's just a horrible situation. It's absolutely deplorable. And the police do have the opportunity to divert you. They don't have to arrest you for possession. They have the opportunity to not do that. And by the way, just to make it clear, I never actually possessed anything in this state.

You don't have to have anything that they can counter quantify. If you have paraphernalia that's considered a simple possession charge.

Chris Hill (18:59)

And what state are you talking about?

Heidi Christensen (19:01)

The Commonwealth of Virginia.

Oh, I'm sorry, we're in D.C. Sorry about that. [*Laughter*] But I don't know how that works here, but Virginia. That's legislation and accountability is what needs to take place.

Chris Hill (19:15)

So legislatively, Claudia, you also work with that. What are we working on in order to deal with this kind of issue?

Claudia Center (19:29)

Is this mic okay? We're going to do this one. OK.

Well, one of the things that a lot of advocates are talking about in the disability incarceration realm is applying the principles of *Olmstead* to this arena. And Jonathan and I were talking about that earlier this month.

Chris Hill (19:52)

Could you explain *Olmstead*?

Claudia Center (19:54)

Sure, *Olmstead* is a case construing the Americans with Disabilities Act and a particular regulation of the ADA. And it says that if you are providing services to people with disabilities in an institutional setting, but people are qualified to receive those services in the community, that there is an ADA right to access those services in the community. Now there are defenses the--to the state or the local government entity called fundamental alteration.

But the idea of *Olmstead* is that people who are eligible to be in the community and receive services in the community should be allowed to do so. And so, in the context of the criminal legal system, there are a couple of ways we can apply that. But one way is that if there is a diversion program or there could be a diversion program, that program should be funded sufficiently to take all the people who are qualified to do that program and those folks should not be incarcerated.

So that's one approach to how you would apply *Olmstead* principles, and this can be through litigation. But it, even probably a first step is to try and advocate using those principles with county governments around jails and diversion programs from jail and with state governments and so that can be legislation. It can be funding. It can be just advocacy, whether your county Board of Supervisors. The ACLU of Southern California has done a huge push with the Board of Supervisors in L.A. to dramatically expand the diversion programs for people with serious mental illness based on *Olmstead* principles.

Chris Hill (21:47)

So, we have--we've been through the arrest. We're just going to assume we've gone through the booking and arraignment. And Heidi kind of brought up prosecutorial discretion in this issue.

Jonathan, what's the quality of the defense lawyering for people with disabilities?

Jonathan Smith (22:07)

Well, I think it's highly variable. Maybe, if it's ok, I'd like to just, I'd kind of like to walk through using an example of how the system works. When I was in the

Department of Justice for five years to the Obama Administration, one of the things that we were told in my section was that we were looking at...Is it on now?

We looked at the conditions of confinement in prisons and jails across the country. And we undertake an investigation of the largest solitary confinement unit in the Pennsylvania prison system at a facility, it's now closed, called Crescent. It originally had been a tuberculosis hospital that became a hospital for persons with mental illness and then it was converted to a prison. Some irony probably in there, embedded in there, and I was with...

Audience Member # 1 (23:03)

The use of the word converted...

Johnathan Smith (23:04)

Maybe that's the irony. Yes.

And I had spent the day with my team. We were there and anybody who's toured prisons know that two things. One is never wear a new suit because the walls will just have been painted and you're gonna get paint on your suit. And the second thing is that they're never going to clear the count while you're there and you're going to spend a lot of time while they're trying to clear the count. And I ended up getting stranded in a room.

We had asked for all the records of prisoners who were confined to a certain period of time, to be confined to solitary, at Crescent. And there was a line of boxes I got when they couldn't clear the count I could. There was no movement in the facility. I ended up in that room and so I started going through the boxes right. That's what you do.

The first five files there are boxes that I opened up. The prisoners had IQs of under 50--and functional--and functional limitations. They were people with intellectual disabilities. And as you read through the files you saw exactly how this worked, for each of these kids have been in the foster care system, each of these kids have been in the juvenile justice system. The systems where you were had not accounted for the disability, had failed them throughout. There almost all were kids where there were co-defendants, which were much more culpable than they were, when they were convicted. So that when they encountered the police, they ended up getting harsher treatment because of their disability, even though there were non-disabled, more culpable co-defendants involved in their cases. There was a breakdown.

You know I didn't see the trials or the transcripts, but you know you had to wonder what happened with the prosecutorial decisions. What happened with defense under circumstances where you saw essentially someone who is being manipulated often by older, non-disabled folks that place them in those circumstances. And then they went in the prison system and they invariably ended up deeper and deeper into the

prison system through the inability to comply with the rules, being preyed upon by non-disabled prisoners, and ended up in solitary confinement.

And throughout, when we looked at the overwhelming majority of people in long term solitary confinement either had intellectual disabilities, to mental health, physical disabilities, or all three. There were small number of people that did not fall into those categories. And so that, that I think and then what you have what happens is that those folks are not going to get paroled. They're not going to get good time. They're going to serve longer sentences as a result of their disability, and they're going to come out in the system without the transition services that you would ordinarily get. Because you know if you're there longer, you know most systems, your good time you know served as probation or parole, you're supposed to get supports and what have you. And so, at every stage of their encounter with the criminal legal system, the disability had a negative impact on what happened to them when they probably should not.

When people, this group of folks, probably should have been supported in the community. We know very well through a lot of the *Olmstead* work that there are non-criminal justice system strategies to provide supports for people to live successfully in the community. And that's really where we ought to be thinking is that sort of you know what is the front-end stuff that we do that--that people are not involved in the system at all. And so we saw in that case, one of the things was interesting, we did attempt to apply *Olmstead*-like; not *Olmstead* doctrine, *Olmstead*-like theories there when we issued a findings letter, which you can find online. Where we talked about the fact that general population was a program or service and if you were excluding people from general population into solitary confinement that the American with Disabilities Act applied.

It's an untested theory in the courts, but we did assert it. The last demonstration at least asserted the ADA applied to the level of confinement in prison and we did persuade the Pennsylvania Department of Corrections to make dramatic changes, as well as that we worked very collaboratively with the protection and advocacy agency in Pennsylvania to do amazingly good work on this set of issues. And solitary confinement in Pennsylvania shrunk dramatically and they did it by bringing in the Vera Institute to do individualized determinations of each of the mostly men.

There were few women in solitary. Most of men in solitary confinement and they dramatically reduced their solitary confinement population by creating individualized plans. And one of the things that for me was the most was remarkable, I met a man. Met is sort of a strong word. I stood at his cell door. He was seriously mentally ill. Sitting in, sort of, in the corner of his cell, I don't think anybody had talked to him in weeks. He was sort of wrapped up in a blanket and he was unable to communicate. After he was able to be released into general population, he had a job.

It was--I mean this is a bad day locked up is it still a bad day, like any day lockup is still a bad day locked up. But the dramatic change of just even being able to get people out of solitary confinement using the Americans Disabilities Act, to do that was for us at least a very gratifying experience. But you see it at every inflection point and

people should not encounter the criminal legal system in the first place. And then with interactions with police and then the prosecutorial decisions, the failure of defense to be able to adequately use disability in defense and to get people out of the system. What happens when people hit the system they just are driven deeper, and they serve longer and then the consequences are greater.

Chris Hill (28:33)

So, as a moderator, I looked down the table and I saw you jotting some notes down Kari.

Kari Galloway⁶ (28:58)

OK. So, I, I'm Kari Galloway. I have had the pleasure I guess of running a reentry program for women coming out of jail or prison in the Commonwealth of Virginia for 14 years. And I was writing, I was writing down because I actually began my journey doing occupational therapy in a former mental hospital when, if some of you remember, they pretty much opened the doors of these gigantic state hospitals. And, you know, thousands of people basically went on the street.

And I began doing this work at a facility that had at one time fully contained community of over 3,000 people, who when I was working there, we had 140 seriously mentally ill individuals who were struggling with how to be part of the community. So those you know 3,000 other folks were somewhere. And now that I find myself working in the criminal justice system, I've--I've met many, many, many of them unfortunately. So, it's pretty amazing. I think it's fabulous all the work that's being done.

And I'm a strong supporter of the changes that--that we're trying to do policy wise--the diversion; early intervention; drug courts; treatment versus incarceration. I think it's critical work that needs to be done in our community.

But because of my work has focused on reentry specifically with women, and the numbers of women incarcerated have increased by over 800 percent over the last several decades. War on Drugs and minimums and three strikes and in Virginia it's really. And, you know, sorry if you're a Commonwealth fan. [*Laughter*]

But it is really been a brutal journey for most of the women who, like Heidi, the majority of whom have some serious issues, mental health issues, have had severe trauma, many coming out of the foster care system. Pretty, pretty crazy.

So what I want to encourage is--is that in the process of developing humane and more just pre-incarceration policies and opportunities that we don't forget that there are still a lot of people behind the doors of solitary and just behind the doors and who are caught up in this vicious cycle of recidivism; whose lives have been so destroyed who may have--may or may have not even entered the criminal justice system with a disability. But in my experience leave if I don't--I don't even want to say nothing more

⁶ Executive Director, Friends of Guest House.

with a trauma history that's, you know, unbelievable. I worked with women, mostly. So, I can't say that the men don't suffer equally, but the women have undergone phenomenal amounts of trauma.

And then it is Heidi's story is so. Heidi is an alum of our program, by the way, and she's not unusual unfortunately. But leaving with, you know, Heidi came to us with an open wound. We've had people coming with you know they go. We take them right to the emergency room and the doctors want to amputate a foot. We've had people, I mean, it's really crazy, that we can't address this in a more humane way for people who enter with or without a disability, but who definitely leave with multiple disabilities. It's really, it's really tragic.

Chris Hill (33:23)

So, Claudia, two things. One, that 800 percent number feels like warehousing. And, what litigation? What laws are there already that we can use to deal with people not getting what they need in prison, medication? The, the medical care. What is there to do and what is being done?

Claudia Center (33:58)

Well, there are many, many lawsuits against prisons and jails across the country and I'm sure many people in this room and on the panel have worked on those cases. They're typically brought under the U.S. Constitution as well as the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, seeking constitutional minimums of medical and mental health and dental care and seeking equal access to programs, services, and activities for people with disabilities. And those cases are continuing. They many, many prisons are under court supervision and I think that what many lawyers have concluded after decades of this work, is that although the work is important and it's important to make those changes that are possible to make, it is literally impossible to provide constitutionally sufficient medical and mental health care in a prison context. It's just impossible. So, and we also know that despite the decades of litigation, we have not reduced significantly the population that are incarcerated.

So, it's really a challenge. And in California where there was a population reduction order in a very famous decades long case called, well it's two cases, *Coleman* and *Brown v. Plata*. They did drop the population by I think 30 or 40,000. Big drop, but the numbers of people with mental disabilities has increased and with serious mental illness has increased, both as an absolute number and as a proportion. So, it's--we want to start on the front end as people are saying with supports in the communities, with alternatives to incarceration. And I wanted to just talk about the real front end, the schools. The ACLU recently published a report called "Cops and No Counselors" that showed that 14 million children attend schools with police in the schools, regularly assigned to the schools, but no counselor, nurse, psychologist or social worker.

Chris Hill (36:26)

And, we can find that on the website?

Claudia Center (36:28)

Yeah. Cops and No Counselors, ACLU.

Chris Hill (36:38)

Najma, I have been seeing you write furiously. So, what's on your mind?

Najma Johnson (36:40)

So, as I was listening to everyone's stories. Yes, it's very true that mental health is on the rise. So, three things here. You know counseling services. You know especially deaf people with mental health issues. They need some type of interpreters, a certain type of interpreter. And it's very hard, it's not many interpreters who are specialized in the field mental health. So, we need to find the interpreter who fits that field. And also--it is still just.

Also, you were talking about the lawsuits. Yes, I'm glad the lawsuits are happening. But I work in domestic violence and I'm trying to figure out how I can support deaf victims who are coming in for reentry. What lawyers can we contact? The lawyers say we don't provide interpreters, so we're responsible to pay for the interpreters and it just doesn't make sense. And I'm being honest I'm shocked that the lawyers would actually say that. You know, we're trying to figure out, we're trying to let them know they won't apologize we'll have interpreters, but you know I don't have any legal jargon in my body to really explain. But you know it's unfortunate, it's really sad.

And also, you guys were talking about relationships from the barriers, from prison and mental health. We are still lonely. Because I know I've been in contact with different programs. And fine, we do have a victim who just came out of prison or a victim who just experienced some type of violence by the police or maybe a deaf person was exposed to some abuse. So maybe an organization we can collaborate. But it seems like organizations, they don't want to collaborate. Yes, it's a cultural difference. And also, I think what's really hurting us is that we're stuck on foreign language. It's easier to get a foreign language interpreter versus to get a modality interpreter. So, it can become more of a stand-offish. I don't know this, I don't have a perfect answer and it's just unfortunate. It's really sad. I know many programs, they struggle. I know I have a lot of barriers. I know these things.

I think you know what breaks my heart is that you know the deaf victims: do they matter? Are they important? Why is it, because they're not hearing? You know what I mean. But it's not true. If you really think about it is true. I just think the whole thing just what I mentioned earlier the whole thing that's hurting us is that the language modality. And that requires more money. And that's what's hurting us. So, so, language. So sometimes I use maybe ASL. Oh, that's like speaking Spanish. No, no, no. It's still verbal. So, it's two things hearing people. You have audism. A systematic belief. That you know hearing is better. And phonocentrism. This is a spoken language supremacy.

So, it doesn't matter. You know South America. You bring the language is important no matter where you go. To a deaf person wherever they sign. They use, you know, Mexican or German sign, do they count? So, in this country, you know, really our world. We are all strongly spoken language here.

So, you know finding a, a person you know doing the physical language that matches me. You know as deaf people, you know, we're hearing but we just don't have access to speaking. And they use sign. And they still don't get service as well? Maybe they can hear the information yet, but you know the signing isn't matching. You know. It's a problem you know with the hand you know it's a problem. I'm up, I'm sitting here and I'm the only one signing. I have four interpreters. I think we have to you know re-shift that. You know incorporate it and also make it in your everyday work.

You know not just making things up. Oh, I forgot the deaf person. Oh, I forgot the deaf blind. You know it happens. Yes, it does. But you know I think many organizations there are wonderful. They're great. But you know if we really want to collaborate and work together, let's share work. Let's just make this successful. Again, how much successful can we be? I'm not sure, but we can always start somewhere and start some something until something tells us to stop. You know.

Audience Member # 2 (42:11)

Clarification. First of lawyers need to stop telling us we need to pay for interpreters.

Najma Johnson (42:14)

Right. Perfect. Thank you. Thank you.

Chris Hill (42:25)

Thank you. Interpreters are good. There are hardly any interpreters for anything and we, and we're not paying, we don't pay for anything for this system. Jonathan.

Jonathan Smith (42:48)

Yes. Two quick points.

There has been some work in, I know here in the District of Columbia, for example, where there's legal services programs should be providing interpreters through shared legal interpreter bank. And so here is that's under a grant from the D.C. government and it also is part of D.C.'s, D.C. agencies as, under their language access law...So...

Chris Hill (43:11)

Is something that people get automatically?

Jonathan Smith (43:19)

Through each, any, any, any D.C. legal services program should have access to, should have access to the shared interpreter bank. The other thing though I think is just to touch on in terms of the criminal legal system.

Access for deaf and blind--although there's a much smaller community of blind people who are incarcerated. There's larger community of deaf people incarcerated--is a hot issue right now being litigated. I mean we are on the Fourth Circuit case that we took to the Fourth Circuit about six months ago, found that the deaf prisoners have a First Amendment right to communicate with people in the free world, just like any other prisoner does. And if that means they've got to put video phones in on cell blocks, they have to put video phones in on cell blocks.

We're currently in the middle of litigating a case in Louisiana on behalf of deaf parolees where, believe it or not, the Louisiana Department of Corrections believes that you can have a--you can advise somebody of their obligations under parole and do parole visits without an interpreter. Or if you need an interpreter and the person is deaf that you can use another prisoner to provide those services. And so, we're just we're in the middle of that litigation right now.

Knock on wood. We're close to settling. Let's say the case is a case being settled in Michigan right now to provide access to deaf prisoners. This is an issue that has received far too little attention and is just beginning to get some traction in the courts with the application of the Rehab Act and the Americans with Disabilities Act to ensure that, that deaf prisoners both are able to both communicate within prison, which has often gotten a lot of attention, but also this very important question of people being able to communicate with the free world. And under the First Amendment that is finally starting to get a little bit of traction in the courts and this Fourth Circuit decision in the *Heyer* case I think is going to provide a basis to take that work a bit further.

Chris Hill (45:19)

And what was the name of that case?

Jonathan Smith (45:20)

Heyer. It's *Heyer versus the Bureau of Prisons* or I think it's *Heyer versus the BOP*. So it's *Heyer*. H-E-Y-E-R.

Chris Hill (45:33)

Claudia, I see you.

Claudia Center (45:36)

Yeah. This is Claudia. The ACLU's been working with TL here, who's with HEARD on two cases, well more than two, well two that I'll talk about now, in Georgia

on behalf of deaf and hard of people who are incarcerated. And then also deaf and hard of hearing people who are under community supervision because they're on probation or parole or on the sex offender registry and must comply with very complex rules that are typically written in really complex English that even the lawyers at the ACLU read and we can't figure out what the rules are. And our clients have definitely encountered barriers. You know when they're arrested, when they're interrogated, when they're you know have a public defender, et cetera. Anyway, I'm wondering TL if you'd be willing to say a few words about our litigation or do you want to say anything about the topic tonight, today.

Do you want to sign or do you want a... Here. Over here is difficult. So.

Talilia Lewis⁷ (46:45)

It's stuck. This is TL. Thank you for the invitation to speak. I just want to know that litigation is not going to save us. So, I'm a--I'm an attorney. But before I became an attorney, I only became an attorney because I work in debt. I'm disabled and black and queer and youth, and I'm low-income. I've been homeless, all the things.

And the reason I went to law school was because I found all these deaf wrongful conviction cases and nobody in the nation wanted to talk about it, wanted to address it. The National Association of the Deaf is like "oh we don't do prison" because they're run by a bunch of white, racist, deaf people in the same way that all the disability organizations are run by a bunch of white racists, disabled or non-disabled people.

The legal profession is a very conservative profession. That means what we're operating under a lot of preconceived notions about who is expert about particular things and who is qualified to speak on particular things.

The legal system is, is ableist, inherently racist, inherently classist, inherently. And we're talking about trying to resolve these issues by and through the legal system. So that's like the largest problem, right. So, the fact that, bless all of our, our lawyer hearts. But really the reason why all of the deaf cases are coming about is because I run an all-volunteer organization and I've been running it for eight years. No one was talking about this issue. All of the cases that are being worked on is literally because of volunteer blood, sweat, and tears from our community.

And that has to be named. It can't be erased. I've trained all of the attorneys in the nation for free. I don't want any money. I'm not interested in money. I want my people to stop dying, right. The proximity to the violence is what really is. What moves people in ways that a lot of white, wealthy attorneys who've never experienced trauma, poverty, violence, addiction.

Addiction is a disability also, which we haven't really crossed that, that threshold either in this conversation. And then also the thing I want to name right now, I'm working on is the last thing I'll say and then I'm giving the floor back. I'm working on right now an

⁷ Executive Director of HEARD.

ode to the runners; an ode to black and indigenous people who run from police, right. Our understanding of disability has been built up around a frame--a framework of whiteness, a framework of privilege.

So, if you understand disability figures white and privileged lens you never understand disability through a black, indigenous, deaf, Latinx, low-income, addiction lens. And that's really been the problem all these years. And that's what Najma was trying to get to a little bit earlier.

Black disability, indigenous disability, black deafness, indigenous deafness looks different than white disability and white deafness. We talk about disability very differently if you look at our music, disability is littered throughout there, but you're not going to see anyone saying, "oh I had a mental health crisis. I need to sit down on the couch with a mental health therapist." That's not how our communities work.

And so what happens is there's erasure of our trauma and our pain usually brought by--on us by the state, and by the legal system, and by the medical system, and every other system that exists. And then we try to use the same systems that abuse us to save us, right.

And then the people who are in those systems get heralded as gods. The people who are funding those systems get heralded as gods, of the gods, right. And so, there's a lot that needs to be unpacked that often doesn't get unpacked.

But that's really the work that my folks have been doing. Shelby, sitting in the middle, has been working for free for five years. I've been working for free for 12 years. Like literally the people who have been doing this work, we are unpaid laborers and we are in it for freedom and liberation. And generations before me, I'm standing on the backs of my ancestors who have died doing the same work. And that's wild that in 2019, I'm still doing the same work Frederick Douglass wrote a piece that was like talking about Georgia. I'm working on the case with and ACLU about mostly black and deaf blind, so people talk about deaf people in prison, they talk about blind people in prison, that are deaf blind people in our prisons all across this nation.

Why? Because deafness actually usually comes with a combination of things and in our prisons. Because there's no health care a lot of our folks are actually deaf blind. They're quite literally Najma and they're mostly black folks and nobody wants to talk about it and imagine the things that are going on with this. I mean it's wild to me though. The legal system, attorneys, public defenders--bless their hearts--aren't providing interpreters. There's so many wrongful convictions of deaf, deaf blind, deaf disabled, and hard of hearing people; don't have the words for it. I've been trying to get people to take this on the Innocence Projects--bless their hearts, they're overwhelmed as well--aren't providing interpreters for actual innocence cases.

Appellate attorneys aren't providing interpreters, don't understand any grounds for appeal. So, when I say systemic--like the entire system is failing all of my people, whether I'm talking about black folks, black disabled folks, black deaf folks, indigenous

folks like all of the intersections of the intersections are not being addressed right now. And that's what frustrates me. Even the fact that the panel is mostly white, bless all of y'all's hearts. But like we've got to figure out different ways to go about this, and litigation is really not going to save us because we've been litigating these issues for generations. So, and the ADA is 30 years old.

Chris Hill (52:09)

Hang out for a second because I have a question. What can save us?
[*Laughter*]

TL (52:18)

This is TL. So what I call disability solidarity. So, I've been developing this concept of disability solidarity and most people think it's about everyone joining in with disabled people, really disabled people are racist as all get out and ableist, right.

So that's what Najma was talking about earlier. Najma was like I identify as a disabled person politically. Right in the same way that Najma identifies as a black person politically. So, I identify as a mad black person politically as well. Right there's a thing there's a reason for that. Within most white deaf communities who are running ship they say, "oh we're not disabled we're just deaf." Right. And what that does is it causes a fissure. We're stronger altogether. Right. So, we actually, you are--you are disabled and all, in all technical senses, right. The society treats you shitally like they treat me shitally because we have particular behaviors that are deemed not normal, right. Because whatever it is that we're doing is deemed not acceptable. So Najma being black, deaf and blind. Oh you're--you can't hear, you can't see. Therefore, we're going to treat you differently. We're not going to provide these accommodations.

So, disability solidarity calls on racial, justice, economic, gender, equity communities to include disability. Why? Because what we know is that disability is disproportionately represented in every single marginalized community. Largely because of the ways in which oppression affects people's mental and physical health. Right. So, if you understand that at the margins of the margins, if you look at women, trans folks, LGBTQI folks, black folks who've been dealing with murder for generations, indigenous people, literally every single one of our communities you will find disability disproportionately. And that's because of the ways in which these things work. But most people don't want to talk about the intersections of the intersection.

So we kind of have to. I don't even understand how people are working on issues of mass incarceration without discussing disability and the vast majority of organizations that say they're working towards decarceration, even our abolition. The best abolitionist in the nation, prison abolitionists, don't know anything about disability. But the majority of the people who are incarcerated I'd say about 90 to 100 percent of the people who are in prison like, I think Kari said, are disabled. Why, because if you don't enter prison disabled you become disabled. Quite literally prison is disabling. Right. And so, we have to understand this nexus between all of these things, or we will continue to fail.

And in disability communities because ableism and racism have always been inextricably linked, if you're trying to address ableism and you aren't talking about your own racism, you're actually perpetuating ableism in your own community. And on the other side, if you're talking about, I'm doing anti-black racism work and you're not talking about ableism, you're actually perpetuating anti-blackness. Right. And so, if we're not understanding those connections, then we're never gonna get free.

You can't talk about racism and not talk about eugenics. Right. Eugenics and racism, ableism all came together. This idea that particular black and brown bodies with particular head and eye shapes, that's the phrenology framework, that these people are inherently inferior to other people. All of that is actually ableism, so when I talk about racism, I'm always talking about ableism and vice versa. And so until people get to the place where they're understanding that these things are inherently connected, we're never gonna get free, and we're all going to be spinning our wheels, and my children and all y'all's children, we're all gonna be tied up and all these jacked up systems that are violent. So that's--I don't know if that helps answer the question, but that's my--that's my take on it.

[*Applause*]

Chris Hill (55:53)

I just want to take a breath for a second.

TL (56:00)

That's why y'all should not ask me to...

Chris Hill (56:06)

No, no. That was perfect.

And it leads me to this. So, after all of what TL said, Kari and Heidi to talk about the reentry process because as she was talking about racism, ableism it sounds like Friends of Guest House also deals with these issues based on your background. Based on your background and what the work you're doing.

Heidi Christensen (56:34)

Well, first let me say that there are not a lot of programs like this for reentry for anyone with any particular crimes. OK. So, they get like 400 applications a year and they can serve 60 women. OK. That's it. That's--it's a six-month program. That's the beginning and the end of it. And in order to offer the comprehensive services that are necessary to help people reentry and get through the trauma of prison.

Incarceration is traumatic. You, you will leave there with things that you do not enter there with. I can promise you that. But when you get to a reentry program. You know I would say what 95, 96 percent of the women come have an addiction problem

which is, you know, a disability. However, we're not a rehabilitation program, we're a reentry program. But all of those things get addressed across the board. It doesn't matter what your specific needs are, what color you are, what age you are, what your crime is. Everybody walks in on a level playing field. Most of us that have walked in there and I don't think people address that through incarceration.

You have deconstructed your familial relationships, so you have no support in the system or outside the system. Absolutely none. So, when you serve the time for whatever crime it is that they say that you committed. They open the doors they say good luck. We don't want to see you again.

The recidivism rate for women is 70 percent because there isn't the support out there in the system for anybody of any color or any crime to help you assimilate back into society. You have zero support. Had I not had the Guest House, I'm going to be perfectly honest with you, I would have reoffended within 30 minutes. Within 30 minutes I would have had to put a roof over my head so I would have had to have an at-risk lifestyle in order to do that. And in order to do those things I would've had to put as a substance into my body because it's not my natural go-to to behave in that manner. But you know survival, necessity is the mother of invention, and unfortunately survival kicks in and this is what you have to do. So, when you walk into a place like Guest House which is a very rare place indeed. Like I said the air is rare. Everybody's on the same playing field, everybody.

Some of us have third grade educations and come from impoverished areas. Some like myself had a master's degree and a business on my own prior to suffering horrific domestic violence, which then led to substance abuse. I mean nobody, you know nobody, I don't care who you are or where you come from when you were a child. Nobody says I want you to grow up and be a criminal. I want to go grow up and be an addict. That's not what your heart tells you when you're 5 and 6 years old. If you were 12 years old, I don't care where you come from or what socioeconomic background you have in some way you've been wounded. I don't care if it's from the playground, or if it's from a babysitter, or if it's a brother.

It's hard to live in this world a day without some sort of wounding. So, you carry that with you. But Guest House and the reentry program, they treat the whole woman, the entire woman, every aspect of what it takes for you to re-assimilate and to help reconnect you with your families. And to have you get gainfully employed and not just a minimum wage job, in a living wage, something that you can grow into. Reentry with disability. I mean they have disability accessible accommodations, which of course I had to have because of my disability when I walked in there, couldn't do the stairs. But had I not had the Guest House. I have no idea.

Kari Galloway (1:00:15)

And I want to acknowledge that we haven't, as an organization that's 45 years old. So, this started by a woman who was herself coming out of federal prison, came back in to Northern Virginia, which is where we're located and said, "dang there's no

services for women like me what the hell am I going to do.” But she had her own family and they stood by her. But once she realized that most women didn’t.

But we haven’t in the 45 years, and then the 14 years that I’ve been there, certainly grappled with the hearing and sight impaired community at all. So, I would welcome an opportunity to collaborate and see what that looks like. I don’t know because we’re where we are making our materials available; the women aren’t applying or whatever.

This has been and really is available to them...Yeah, I mean, it’s on us because Virginia Department of Corrections has no incentive to do this. This is how, good, you know it takes good people doing good work to make that connection for people who need services. It’s not I don’t. I don’t. I don’t want to disparage completely the Virginia Department of Corrections because they have, but we have a contract, disparage them.

But, but, they’re not highly incentivized to, to dalliance in the margins whatever those might be regardless of, you know, who they are. So. I would welcome an opportunity to be better educated and do a better job serving the communities that we aren’t doing a good enough job to serve right now. As Heidi said we get 60 women a year that can come through our doors. We’re the largest residential program in the state and in the Commonwealth of Virginia. We have over 5,000 women incarcerated in Virginia and we take 60 of them a year.

Claudia Center (1:02:07)

This is Claudia. I just want to make one point here. We know what works. I mean we know what works in the community. We know what works for reentry. We know the programs that work. And they just aren’t, there’s not enough spots, there’s not enough. And yet we always have enough jails and prisons.

Chris Hill (1:02:29)

So, we have enough time for questions for our panelists and our new panelist TL. [*Laughter*] I got a feeling a lot of people are going to come up to you after this.

Audience Member #3 (1:02:51)

Can someone run the microphone? Thank you. But it’s important to use the mic. I talk loud too, but.

Jamie Argento Rodriguez (1:03:09)

Hi. I’m Jamie Argento Rodriguez. I work at the Public Defender Service here in D.C. I run our Community Defender Division. So, we’re the deep end reentry side of this work and I’ve heard criticism from all of you about public defenders. And I’d like to say that my organization, and specifically my division, does a good job of addressing these issues particularly because I started off as a special education attorney a million years ago, under the tutelage of folks like Joe Tulman and others who taught me this work.

But I worry, right, as I just, so you all know, you've all got linked in requests for me, because I want to connect with everyone including TL about this. I worry that even at a well-funded organization, such as PDS, that we're still falling short. And I also am concerned about raising my sisters and brothers who are in this. Who are concerned about racial and social justice issues that include our folks in the disability community.

So, I think this is a really broad question, but what should we be doing? Because public defenders' offices are generally, woefully underfunded and disability rights falls at the, towards the end of the list of things they have to conquer when they can't even get attorneys, and misdemeanor court, or juvenile court to represent folks who are faced with the loss of liberty.

So, do you have some low hanging fruit that you can recommend to us? And then perhaps the second part of that question is for folks like myself, who are working on the reentry end, what can we be doing to prioritize because our folks are coming home and they have been broken down by the system? And my folks have been incarcerated for as many as 30 and 40 years by the time I see them. So, the institutional disability and racism and all of the other harms that have been occur--and violence that they've experienced and endured is troubling. And so how do we help them as lawyers and as responsible community members to help them be successful. There's a lot, but maybe we could do a law review article together.

TL (1:05:23)

This is TL, I can answer the first part because I do criminal defense work as well. I worked at PDS. So, when I started at PDS, the first case I ever worked on was a case that I found at DC PDS, a black deaf man who actually just got out after 25 years and I worked on his case for 12 years.

So, his name is John Wilson and you can look him up online cause we've got some stuff. Anyways, the point is even PDS, who is one of the best public defender services in the nation, the attorneys were completely incompetent about ableism, and disability, and deafness. So, in his instance, a lot of letters had been coming in and there was misunderstanding about the language.

So, what Najma didn't mention that many folks don't know is that really many hearing people don't read and write English, so let's start there. But many deaf folks also don't read and write English, right. And that's because ASL or whatever other sign language, there are hundreds of sign languages are full languages, so you don't actually need to use English and that goes back to the spoken language supremacy that Najma was talking about earlier. Anyway.

So oftentimes lawyers receiving information from deaf people, just like police officers, think that deaf people, deaf blind people, deaf disabled people especially are evading questions or not trying to be helpful or being intransigent. So many of the case including, involving deaf people lawyers will say "you know your honor my client is just being intransigent" or don't want to provide interpreters et cetera. That's not--I'm not

talking specifically about PDS because they've learned and Avis the director of PDS actually knows some sign language. She actually worked with this particular client, before probably, before I was even like, I don't know, a toddler.

So, like so my point is that a lot of people have been learning through the process so John Best also who just retired from PDS had hired deaf students from Gallaudet University to work on deaf cases and I helped them along, right. So, it's again goes back to what Najma was talking about, that we have to be in community in conversation. A lot of the work is being done, but it's being erased. And that's another huge part of the problem. On the criminal defense side, what our public defenders need to know whether they're proud of members--private attorneys who are being hired out, C.J.A. attorneys who are appointed, or are PDS attorneys, is that most of their clients have disabilities. Like literally the vast majority of your clients.

So, if you're in a court and you're not talking about disability, you're probably, something's probably wrong with your defense like that should be incorporated into your thought processes around it. The problem is what Jon Smith said earlier is that the way that the legal system now currently views disability is actually negative. So, what we know in the serious mental illness context, in the disability context is right now because we haven't shifted cultural conversations around disability, most jurors, most judges the bench, the bar tend to think, "oh disability," and then the person gets more punishment. Not accommodations, not less, especially if they're black, low income, had a history of addiction, are a woman, trans, queer person, like you name it, now it's worse. "Oh you've got a disability, you're even more dangerous" as opposed to "oh accommodations weren't provided." So, my thing with PDS and I would love to do more free trainings with them, like, you have to have a disability lens or you actually were not doing our jobs right. That's all of our public defender services.

So that's what I'll say about the criminal defense component. Can you emphasize that even though Virginia Department of Corrections isn't providing accommodations that is still required by law, Claudia?

Claudia Center (1:08:46)

Oh yes. Accommodations are provided by law by virtually every entity in our system other than, yeah virtually, the federal quite like a little outlier that aren't covered very well by any law. In terms of--I want to mention one thing that may be low hanging fruit that we could write about or think about is that when people are released under terms of supervision, probation, or parole, there is a right to reasonable accommodations in that process and that is something that public defenders could try to advocate for and that the disability community could support and is maybe somewhat less complex than weaving disability into the criminal defense, side even though it's equally important. But anyway, that's one thought I had.

Kari Galloway (1:09:45)

And I wanted to harp on the Department--Virginia Department of Corrections, because even though they're required to provide for disability, up until six months ago they weren't required to provide feminine hygiene supplies free to women inside the system and they're still not doing it in the jails in Virginia.

So, you know, if we can't get pads and tampons inside, there's little hope that we're going to get very much else done. So that is a low hanging fruit. I mean just be an advocate, just talking about the reforms that are needed. I know when I started doing this and 15 years ago, I couldn't get anybody to talk to me, like nobody cared at all like I'm like "oh incarcerated women" and they're like, "Yeah."

And especially in Virginia you know, you did the crime. You did that, you should do the time and I mean everything I can.

I just kept I would just get the doors were just shut, shut, shut and I would tell these women just sit down. This guy's got to go to the bathroom eventually, just sit down in his office. You're a constituent. He needs to talk to you. You know, just be present and put a face to everything so that they have to look at you when they say, oh you know it's OK for you to roll tampons out of pads. So that you have enough supplies for the month. That's, you know, it's just a opportunity for all of us, for us to continue to dialogue with one another about the inhumanity of what's taking place inside the criminal justice system.

That's an individual thing that's this woman 45 years ago renting a house in Alexandria and saying to other women who didn't have any other place to go, come inside and have a bed and a place to lay your head so you can get yourself together. And maybe have a small expectation of a normal life. That's really not a lot to ask. And it really doesn't, sometimes doesn't take more than a bunch of people who give a shit to provide a bed, and a table, and a chair, and an opportunity, and some food. And, and you know some compassion. To help people get back on their feet. It's not just basic, frickin' human rights. You know.

Chris Hill (1:12:08)

I want to say that the Legislation Clinic worked with an organization called BRAWS here in D.C. and we became part of the issue of the tampon tax. So, it's, it's real. It's still going on and I think there's something coming up federally about this. Another question.

Audience Member #4 (1:12:36)

My name is Bob Chris. I'm a, have been a disability, health policy advocate. And in the previous panel one of the, someone in the audience, asked the panelists, are there examples of reasonable accommodations that employers have been expected to provide to accommodate employment of people with disabilities. It strikes me that this panel is focusing on an area where we all acknowledge that the civil rights laws apply to

the federal, to the so-called criminal justice system and in fact there was a Supreme Court decision about the right to treatment in for people who are incarcerated. But I'm wondering if there have been examples of case studies where the exemplars, like you're giving us here are written up, with an example of what ideally should have been done in a particular situation. Clearly the system is going to say it's enough. It's an undue burden.

That's a great excuse and we're going to hear that more and more with austerity coming in both sides. But it strikes me that the problem you're really helping us see very clearly lends itself to a written example of what ideally should have been done. And I remember that we used to go to the Department of Justice, when at least there was some semblance of justice. Where the Department issued a, what's it called some kind of an agreement, that a consent agreement or something like, that, that we then were able to use with other actors saying this is how a particular healthcare system, for example, dealt with discrimination. So, we expect the same from you. Is there, is this happening in this criminal justice area?

Chris Hill (1:15:25)

We don't have a lot of time. But I want everybody who wants to answer the question to answer the question and I will get you all to lunch. No pressure.

Claudia Center (1:15:42)

I'll just say yes, that information exists. But it's in a lot of different places right now. It's in sort of, in the monitoring status reports of cases that are under court supervision. It's in pieces of DOJ settlements and consent decrees. But I think that's a great idea to sort of compile all of those into some sort of published place. But maybe Jonathan has a better idea.

Jonathan Smith (1:16:15)

Yeah, no. I give you covered of much of it. Part of the problem with answering this question is that it each of the places in which someone encounters the criminal legal system there's going to be different sorts of solutions and there's going to be different questions like even the idea about when you call 911 the only person that will respond are police and fire and not a social worker or a peer counselor or, you know what I mean.

So, we know a lot about how to do it right. And there are little pockets of places where things have done--been done very well. But each of those inflection points are going to be places where you're going to need to have these best practices or promising practices or even, they're actually not even best. They're sort of simple, sort of common-sense, very often common-sense sort of solutions. The other thing though, I would just like to note is that particularly when we're talking about litigation against the criminal legal system, the law is very stingy.

It is not unimportant to get compliance with the Constitution. It's not unimportant to get compliance with the American Disabilities Act. But it's not going to give us the systems that we want.

And so, the role of the litigation is will. And you can achieve real progress and goals and you can take some of the harshest, most cruel, and adjust those conditions. But it's not going to make those funds a fundamental change, that's a political, social kind of movement-oriented kind of activity. And as lawyers we have to figure out how it is that we support the organizing in the movement, not defeat it through our litigation.

And that's I think it's worth underscoring a little bit in answer to your question is that I can tell you what the law requires. We're all gonna be pretty unsatisfied with that. The Eighth Amendment sucks. The application of the ADA in the criminal legal system is you know, we're you know the Supreme Court almost said that. We came very close to losing, said that the police don't have to take disability in account when they're making an arrest.

We came very close, we dodged that bullet because fortunately...and it's coming again. So, I mean we--we've got some you know... The law is not our solution. It's important. I don't want a--sitting here at a law school, and as a person who spent 35 years litigating these issues, I don't mean to suggest it's not important. It is hugely important. But it's not going to give us--what it's not going to give us to the legal system that we want or deserve or get people out of the legal system altogether, which is really what, for the vast majority is issues, people just shouldn't be in the legal system at all.

Chris Hill (1:18:54)

Thank you. Before we thank the panel, I just want to say that you are in the right law school to talk about this because we are raising people's lawyers, criminal justice, public interest lawyers to do this work. In the Legislation Clinic, we're also teaching how to do the policy work. So, and, while they're here we want. It sucks but you are here to make it suck less and make it not suck at all. [*Laughter*] So, let's thank our panelists, then there'll be time for lunch.

[*Applause*]